Government of the District of Columbia

ZONING COMMISSION

STATEMENT OF REASONS

ORDER NO. 314
ZONING COMMISSION CASE NO. 79-1
TREATMENT OF HOTELS
May 8, 1980

BACKGROUND

The Zoning Regulations which presently control land use in the District of Columbia were originally adopted by the Zoning Commission and became effective on May 12, 1958. These regulations have been amended many times since they were first adopted. A large number of technical amendments were made in the first few years after the original adoption. Other changes were considered and adopted on a case-by-case basis as the need arose. The first comprehensive review of the 1958 Regulations was begun in the late 1960's, and led to major revisions in the Regulations prior to the adoption of the Home Rule Act. Such changes included the modifications to the R-5-A District in 1970, the creation and mapping of the Waterfront and Mixed Use (CR) Districts in 1974 and the adoption of a sectional development plan process, also in 1974. All these changes were made to fill gaps in the Regulations caused by changing conditions in the District of Columbia since the original adoption of the regulations in 1958.

In 1977, after the composition of the Commission had been changed by the Home Rule Act, and after the newly constituted Commission had considered several major zoning issues and cases, the Commission determined to embark upon another series of revisions to the regulations. Because the Commission had identified a series of regulatory changes running across a number of diverse geographical areas of the city, the Commission set out to review all of the commercial and mixed use districts then in the Regulations. As part of that process, the Commission also took under review the planned unit development process, and at the urging of a number of citizen groups, the question of the

treatment of hotels in all districts.

One major issue addressed by citizens and community groups at the hearings held in 1978 was the adverse impacts that hotels have on residential areas, particularly in terms of the traffic they generate. Testimony was also received that hotels by their nature are commercial uses, and thus should not be permitted in residential areas. After considering those issues, and other testimony related thereto, the Zoning Commission enacted several changes regarding hotels, particularly in the SP, CR and C Districts.

ORIGINS OF THIS CASE

The present case began with the receipt of a letter from Advisory Neighborhood Commission 2-A, representing the Foggy Bottom and West End areas. In its letter of January 7, 1979, the ANC noted that a number of existing apartment houses located in residential districts in its area had been converted into apartment hotels. The ANC was concerned that the Zoning Regulations, as they then existed, would continue to allow the conversion of apartments to hotel units and that such conversion would detract from the city's already tight housing supply. The ANC also cited provisions of various city laws and regulations which allowed apartments to be converted to hotels and thus for rents to be raised beyond the levels which would otherwise be mandated under the rent control statute. The ANC further requested the Zoning Commission to enact its proposals on an emergency basis so that the status quo would be maintained while the Commission considered permanent amendments following the required public notice and hearings.

The Commission considered the request of ANC 2-A at meetings held on January 11, February 8, and February 15, 1979. The Commission also heard from various other individuals and organizations, both in support of and in opposition to the proposed emergency action. At the meeting held on February 15, 1979, the Commission determined that the ANC and its supporters had not presented a sufficient case to convince the Commission that emergency action was warranted. The Commission therefore denied the request. The Commission did, however, determine that hearings should be held on an expedited basis to consider the general requirements for hotels in all districts, and the specific proposals of ANC 2-A as well.

PREVIOUS REGULATIONS OF HOTELS

In the Zoning Regulations adopted on May 12, 1958, a hotel was permitted as a matter-of-right in an R-5-B, R-5-C, R-5-D, SP or any commercial district. A motel was permitted as a

matter-of-right in an R-5-B, R-5-C, R-5-D, SP or any commercial district. A motel was permitted as a matter-of-right in a C-3-A, C-3-B, C-4, C-M or M District. For the purposes of determining the permitted floor area ratio, a hotel was permitted to achieve the maximum of 5.5 FAR in the SP District. In commercial districts, a hotel was permitted to achieve the same floor area ratio as a commercial use, which in 1958 was greater in all cases than the FAR for residential uses.

In 1959, the Regulations as to the SP District were amended to allow a greater FAR of 6.0 for an apartment house than for any other use. In April of 1961, the Regulations were amended again to allow hotels to also achieve the maximum floor area ratio of 6.0 in the SP District. Hotels were thus allowed to achieve the maximum FAR permitted in any zone district in which they were located.

When the Regulations were amended in 1967 to split the C-2 District into the C-2-A and C-2-B Districts, hotels continued to be able to achieve the maximum FAR in the new C-2-B District, because the upper floors of buildings in the C-2-B District could be used for any use permitted in the R-5 District. When the Regulations were amended in 1974 to create the new Waterfront and Mixed Use CR District, hotels and motels were permitted as a matter-of-right, and in both cases were able to achieve the maximum permitted floor area ratio, which is higher for residential uses than for commercial uses. When the C-5 PAD District was created in June of 1978, a hotel was permitted as a matter-of-right.

At all times from 1958 through mid - 1978, a hotel or motel was a use permitted as a matter-of-right in any zone district in which it was permitted at all, and in all cases, a hotel or motel was permitted to achieve the maximum floor area ratio permitted in that zone. It is also evident that in the various decisions concerning hotels, the Commission considered a hotel to be neigher a totally residential nor a totally commercial use. The use was permitted as a matter-of-right in the R-5-B, R-5-C, and R-5-D Districts, and was permitted to achieve the equivalent FAR for residential uses in the SP, W and CR mixed use districts. The use was also permitted an FAR equivalent to that allowed for commercial uses in all commercial districts.

In the total revision to the commercial and mixed use districts which the Commission undertook in 1978, the Commission made a number of changes related to hotels. The SP District was divided into the SP-1 and SP-2 Districts. The Commission revised the Regulations to require that a hotel use in either SP-1 or SP-2 be approved by the Board of Zoning Adjustment as a special exception. The Commission further reduced the permitted floor

floor area ratio for non-residential uses in SP-2 from 5.5 to 3.5, and set the FAR for non-residential uses in SP-1 at 2.5, while residential uses were allowed a 4.0 FAR. In both zones, a hotel was limited to the FAR for non-residential uses. At that time, in its Statement of Reasons, the Commission noted that BZA review of non-residential uses had been "extended to a few additional uses, including hotels and colleges and universities, because of the Commission's perception that such uses could potentially affect residential uses needing protection, because such uses could occupy large areas which should be devoted to residential use and because such uses tend to generate larger amounts of traffic."

In regard to the commercial districts, the Commission restructured the permitted floor area ratio in all of such districts. In the C-1, C-3-B, C-4 and C-5 PAD Districts, the FAR permitted for residential uses was raised to the same level as that permitted for commercial uses. In the C-2-A, C-2-B, C-2-C and C-3-A Districts, the FAR permitted for residential uses was raised to a level above that permitted for commercial uses. Since no change was made in the provision that permitted hotels to achieve the commercial FAR, hotels could no longer achieve the maximum FAR in the C-2-A or C-3-A Districts. In addition, the C-2-B and C-2-C Districts were totally revised to eliminate the vertical segregation of uses, and hotels were also limited to the lower FAR for commercial uses. Further, in revisions to the CR mixed use district adopted at the same time, the Commission determined to charge hotels against the commercial FAR, rather than the higher FAR permitted for residential uses.

PROPOSALS FOR TREATMENT OF HOTELS

Following its determination on February 15, 1979 to expedite the holding of hearings on the issue of hotels, the Zoning Commission advertised a public hearing to be held on April 2, 1979. The hearing was begun on that day, and was continued also on May 7 and June 11, 1979. Notice of the hearing was advertised in the Washington Star and Washington Post on March 1, 1979 and in the D. C. Register on March 2, 1979.

The hearings were specifically designed to consider all aspects of the regulation of hotels and motels. The notice for the hearing specifically stated at the beginning:

> The Zoning Commission is holding this public hearing to consider generally the issues regarding hotels and motels in the District of Columbia. In that regard, the Commission hereby gives notice that it will consider all zoning-related aspects of hotels and motels, including definitions of hotels

and motels (involving potential amendments to the present definitions and possible new definitions), those districts where hotels and motels should be permitted (including all residential, special purpose, waterfront, mixed use commercial and industrial districts), the manner in which hotels and motels should be permitted (including the standards applicable to hotels and motels, whether hotels and motels should be permitted as a matter-of-right or require BZA approval, and whether hotels and motels should be considered residential or commercial uses for purposes of floor area ratio calculations) and the relationship of Zoning Regulations for hotels and motels to other municipal codes and ordinances.

The Commission therefore proposed that all subjects relevent to hotels and motels could come up for discussion.

The notice also included the specific proposals advocated by ANC 2-A. Those proposals would have modified the definitions of hotel, apartment, bachelor apartment and apartment house and added new definitions for apartment hotel and convention hotel. The thrust of the proposed changes was to clearly distinguish between a hotel accommodating transient guests and apartments accommodating longer term tenants. The proposal as advertised also prohibited hotels in any residential and in the SP and C-1 Districts. It permitted hotels and apartment hotels as special exceptions in C-2-A and C-2-B, and as a matter-of-right in C-2-C and less restrictive commercial zones. Convention hotels were to be permitted only as a matter-of-right in C-3-B, C-4 and C-5 PAD Districts. The proposal also limited hotels and motels to the non-residential FAR in Waterfront Districts.

MAJOR ISSUES

At the three public hearings, testimony was given by more than thirty witnesses and representatives of eight different government agencies consuming more than fourteen hours of hearing. In the consideration of the testimony and of all the other evidence submitted for the record, the Commission identified the following major issues:

1. Definitions - Should there be a definition of an apartment hotel? How are a hotel, an apartment house and an apartment hotel distinguished? How are these definitions related to other codes and ordinances? Should the definition of hotel and motel be consolidated?

2. Nature of Hotels - Is a hotel primarily a residential or commercial use?

3. Conversions - Should the Zoning Commission prevent the conversion of an existing apartment house to hotel use? Should conversion to any other use be permitted?

4. Protection of Residential Areas - How can the existing housing stock, particularly the supply of rental housing, be protected? How can the external impacts of hotels in residential areas be reduced? Should new or expanded hotels in residential zones, which would occupy land that might otherwise be devoted to housing, be permitted?

5. Permitted Density - Should a hotel be charged against the permitted residential or commercial floor area ratio in a district in which there are different densities permitted for different kinds of uses?

6. Benefits of Hotels - How can the city encourage hotel development, in order to provide needed employment, increase the tax base, assist in revitalization of commercial areas and accomplish other city goals?

7. Convention Center Spinoff - How can the city encourage hotels as necessary corollaries to the convention center? Can incentives for hotel development be provided in the downtown area? Generally, which areas are most appropriate for hotel development?

EMERGENCY ACTIONS

Following the close of the record, the Commission considered the case at its regular meeting held on August 9, 1979. After discussion, the Commission directed the staff to prepare additional text language carrying out the directions established by the Commission. At that time the Commission was also made aware that the Washington Hilton was negotiating to acquire three apartment buildings in the R-5-C District adjacent to the existing hotel for the purpose of expanding the hotel. The Commission determined that it was necessary to take immediate action to preserve the status quo and to prohibit any new or expanded hotels from displacing existing residential structures in residential districts until after the Commission had reached a decision in the case. The Commission therefore adopted Order No. 291, which amended the regulations on an emergency basis to permit a hotel in R-5-B, R-5-C and R-5-D Districts only if no existing residential

structure is razed or converted for that purpose. Under the terms of the Administrative Procedures Act, that emergency amendment could be in effect for no longer than 120 days, or until December 7, 1979.

The Commission received a further report from the Office of Planning and Development staff at its meeting held on September 13, 1979. That report summarized the discussions of the Commissions held on August 9, 1979, as follows:

1. Prohibit new hotel use, either by new construction or conversion, in R-5-B and R-5-C Districts.

2. Permit the conversion of an apartment house to a hotel in an R-5-D District only with BZA approval.

3. Define a residential hotel, to have a limited quantity of commercial adjuncts and meeting space, and permit such a hotel in R-5-D, SP, W, CR and all C zones. The R-5-D zone would require BZA approval.

4. Define a full service hotel with substantial meeting space, and permit such a hotel in C-3, C-4 and C-5 PAD Districts.

5. Define apartment house and hotel to be mutually exclusive. Amend the definition of apartment house to place a limit on the maximum number of units to be occupied by transient guests.

6. Merge the definitions of hotel and motel.

The Commission further directed the staff to further digest and summarize the issues presented at the hearing, to provide the Commission with additional assistance in evaluating the large amount of material contained in the record. The OPD advised that it would need at least sixty days to prepare that information, and would report again to the Commission at its November, 1979 meeting.

At the November 8, 1979, meeting, the OPD reported that it was still completing its review and digest, and that it would file its report with the Zoning Commission by December 1, 1979, so the Commission could take the matter up at its December, 1979 meeting. The OPD further noted that the emergency amendment contained in Order No. 291 would expire on December 7, 1979. The OPD outlined a timetable for further consideration by the Zoning Commission, if the Commission were to complete action on the

case before the expiration of a second emergency order.

The Zoning Commission considered the question of whether to find that an emergency continued to exist as a preliminary matter at a hearing held on December 3, 1980. The Commission cited the additional staff work necessary, the requirements of the rule-making process and the necessary referral to National Capital Planning Commission as reasons why final action could not be accomplished before the expiration of the first emergency order. The Commission further found that the same conditions existed then to threaten the public welfare which existed when that first emergency order was adopted. The Commission therefore adopted Order No. 302, which continued in effect the same regulations as had been established by Order No. 291 for a period of 120 days to end on April 1, 1980.

ADDITIONAL PUBLIC HEARINGS

On December 3, 1979, when it adopted the second emergency order, the Commission determined to conduct a second round of public hearings to start on January 17, 1980. The Commission determined that it would narrow the focus of the earlier general proposals and consider a specific set of proposed text amendments to be presented by the Office of Planning and Development. By report dated December 4, 1979, the OPD presented its recommendations and, at its meeting held on December 13, 1979, the Commission authorized the publication of those proposals for the public hearing. The public hearing was held on January 17, 1980. Notice of the public hearing was given in the Washington Star and the Washington Post on December 17, 1979 and in the D.C. Register on December 21, 1979. At the public meeting held on December 13, 1979, the Commission, for good cause, waived Section 2.43 of the Rules of Practice and Procedures to allow publication in the D.C. Register only twenty-seven days in advance of the hearing, instead of the required thirty days.

In summary, the regulations as advertised proposed to:

1. Amend the present definition of "hotel" to include "motel" and define various areas within hotels.

2. Eliminate the present definition of "motel".

3. Define a "transient guest".

4. Amend the present definition of "apartment house" to limit it to no more than ten per cent transient guests.

5. In residential districts, prohibit new hotel construction and allow the continuation of existing hotels without expansion.

6. In SP Districts, allow a hotel as a matter-of-right if it does not involve conversion of an existing apartment house and if function rooms and exhibit halls are less than fifteen per cent of the gross floor area.

7. In SP Districts, allow the conversion of an apartment house to a hotel or a new hotel with more than fifteen per cent of the gross floor area devoted to function rooms or exhibit space only as a special exception with approval from the BZA.

8. In SP Districts, charge the "guest room areas" to the permitted residential floor area ratio, and all other areas to non-residential FAR.

9. Allow "hotel as a matter-of-right in W and CR Districts, and charge the "guest room areas" to the permitted residential FAR and all other areas to non-residential FAR.

10. Allow a hotel as a matter-of-right in C-1, C-2-A, C-3, C-4, and C-5 PAD Districts.

11. In C-2-B and C-2-C Districts, permit a hotel as a matter-of-right only if it does not involve conversion of an apartment house, and require BZA approval as a special exception if conversion is required.

12. In all commercial districts, charge "guest room areas" to the permitted residential FAR and all other areas to non-residential FAR.

13. Allow a hotel as a matter-of-right in C-M and M Districts.

14. Require off-street parking spaces and loading berths for hotels in all districts. Require parking and loading to be provided for function rooms as well as guest rooms.

DECISION PROCESS

The Commission heard extensive testimony at these two hearings, and also received a large amount of material into the record of the case. The Commission gave great and lengthy consideration to all of the materials which were received in the record of the case. Meetings were held on February 14, March 20 and April 10, 1980 at which the Commission discussed and deliberated upon the issues raised by the case, and the proposed text amendments.

In deciding this case, and in weighing the issues and positions of the various interests, the Commission has concluded that it cannot accept, in their entirety, the views of any one group or interest. The desires, needs and requirements of the city's hotel industry are important to the best interest of the city as a whole. Likewise, the strong expressions of the necessity for protecting the city's residential neighborhoods and existing housing stock cannot be ignored or dismissed lightly. In this case, as in most other major contested zoning cases, the Commission believes that it must strike a balance between the often competing interests at issue. In establishing that balance, which must be the most beneficial for the District of Columbia as a whole, the Commission will satisfy some of the concerns of the participants in this case, and not satisfy others. The Commission strongly believes that hearing the views of all affected interests, and then attempting to accommodate the concerns of all in the best interest of the city, achieving a balanced or compromised result, is an integral part of the zoning process.

The Commission further notes that some of the issues presented to it in the course of this case are not within the reach of the Commission's authority. Unlike the large majority of municipalities across the United States, in the District of Columbia the local legislative body is not also the zoning authority. By authority of the Zoning Act, as reinforced by the Home Rule Act, both acts of the Congress of the United States, the Zoning Commission has the responsibility for zoning in the District of Columbia. The Zoning Commission does not have general legislative authority in other areas. That authority is vested in either the City Council or the Congress. The Zoning Commission cannot and will not legislate in areas that are outside its authority.

In the course ofstriking the balance, the Commission met three times before it reached the point of voting on proposed action. At the second meeting, held on March 20, 1980, the Commission determined that it could not take final action on the proposed amendments before the expiration of the emergency amendment adopted on December 3, 1979 by Order No. 302. The Commission

determined that an emergency still existed and that emergency action was needed to continue to prevent hotels from displacing existing residential structures. The Commission therefore adopted Order No. 306, which continued in effect regulations which permit hotels in R-5-B, R-5-C or R-5-D Districts only if there is no razing or conversion of a residential structure to permit the hotel.

GOALS OF THE REVISED REGULATIONS

The Zoning Regulations, as amended by the Zoning Commission in this case, are designed to acheive the following major goals:

1. Protect existing residential areas from further hotel development. As reviewed in this statement, this case originated out of an express desire for protection of residential areas from the potential adverse impacts of hotels. As noted elsewhere in this statement, a hotel is not purely a residential use, nor is it purely a commercial use. A hotel is a hybrid type of use. The rooms themselves resemble in both nature and effect rooms in a rooming house or apartments in an apartment house. The function rooms, exhibit space and commercial adjuncts in both nature and impact are clearly more similar to commercial uses. The Commission therefore believes that those zones within the District of Columbia which are reserved for exclusively residential use should not also permit hotels, because of the commercial aspects of such a use.

2. Prevent further loss of existing housing stock in residential zones. Because of a variety of reasons, the District has experienced an increasing number of conversions of existing apartment houses to hotel use. While there have also been conversions in the opposite direction from hotel to apartment use, the Commission believes that economic, market and regulatory forces are enhancing the likelihood that more apartment houses will be converted or demolished to accommodate hotel use. The Commission believes that in residentially zoned areas, existing residential uses should be encouraged to continue. The Commission recognizes that it is not able to mandate the continued existence of apartment houses if the owner wishes to demolish the building or convert it to some other permitted use. The Commission does believe that it is desirable to remove one present incentive for the loss of existing housing stock in residential areas.

3. Reserve residential zones for residential development. While hotels have been permitted as a matter-of-right in R-5-B, R-5-C, R-5-D Districts since 1958, the Commission believes that all residential zones should be reserved for development which is primarily residential in character. To that extent, the Commission believes that future hotel development in residential zones, even on existing vacant sites, should not be permitted, so that there is a greater incentive for construction of new permanent housing in the city.

4. Provide incentives for hotel development in mixed use, commercial and residential areas. The Commission recognizes that hotels are of vital importance to the District of Columbia, in terms of employment, tax base and other factors. As a corollary to the prohibition of further hotel development in residential zones, the Commission believes that hotels must be permitted and encouraged in all mixed use, commercial and industrial areas of the city, with the exception of the SP District discussed below. As noted elsewhere, hotels are a Hybrid type use, blending both commercial and residential type components. It is thus perfectly appropriate to locate them in all zones where commercial uses are permitted. The Commission notes that all mixed use and commercial districts permit as a matter-of-right uses which are far more intensive and may have far greater impacts than a hotel. The Commission also believes that is neither necessary nor desirable to prohibit hotels from the lower density commercial districts. The needs serviced by hotels are located throughout the District of Columbia, and while certain kinds of hotels can and should be encouraged to locate within the downtown area of the city, the Commission believes that hotels should be allowed to locate in all mixed use, commercial or industrial areas.

5. Insure compability of hotels in SP areas. The SP District is a unique kind of zone in the District of Columbia. While it is a mixed use district, no retail uses are permitted, and most non-residential uses are permitted only as special exceptions with the approval of the Board of Zoning Adjustment. While the Commission believes that many SP zoned areas may be appropriate for hotel development, there are some situations in the SP District where hotels should not be permitted. The Commission therefore believes that special controls on hotel uses are appropriate in the SP District, to insure that any new or expanded hotels are compatible with their surroundings, and to help foster a mix of uses in the SP District.

6. Reduce Neighborhood Impacts from Parking and Loading Activities. One of the major complaints of persons residing in the neighborhood of hotels is the impact of vehicles parked in the neighborhood because such vehicles could not be accommodated in the parking and loading facilities of the hotel itself. The Zoning Regulations cannot be made to apply retroactively. However, the Commission believes that all new or expanded hotels must provide adequate parking and loading facilities to accommodate the basic demands generated by the hotel.

The Commission further wishes to note that it believes the Zoning Regulations should be amended further to provide greater incentive for hotel development in the downtown area, particularly in the area surrounding the new Convention Center. Such a proposal was not included in the notice for the hearing held in January, 1980, and the Commission must give appropriate notice as required by law. The Commission has therefore requested the Office of Planning and Development to prepare a proposal for a new hotel incentive district. The Commission intends to go forward to advertise and consider such a proposal in the near future.

SPECIFIC REGULATIONS ADOPTED

In order to acheive the basic goals outlined above, the Commission has adopted specific regulations for hotels, as follows:

1. Definitions of hotel. The previous definition of a hotel was amended in several respects. The Commission further explained its use of the term "transient guests" to mean persons who rent the rooms or suites in a hotel on a daily basis. The Commission deleted the phrase "communicating with" describing the relationship of the required dining room with the lobby, and replaced it with the term "internally accessible from". Both of these changes were intended to clarify how the definition of hotel should be applied by the Zoning Administrator. In addition, the Commission determined that any facility previously defined as a "motel" would now be considered as a "hotel". The Commission determined to retain the definition of "motel" for reference purposes only, since new motels as a separate category are no longer permitted. The Commission also defined five sub-categories of areas within a hotel, including "guest room areas","function rooms", "exhibit space", "commercial adjuncts"and "service areas." These sub-categories were basically defined to enable the Commission to allocate the various areas of a hotel for the purpose of calculating and apportioning the gross floor area against the FAR limits.

2. Definition of inn. The Commission included a definition of an inn, which is essentially a hotel without central dining facilities and housing no commercial adjuncts, function rooms or exhibit space. An inn is essentially a residential type facility which would meet the definition of a hotel if it had the central dining facility.

3. Prohibition of hotels in residential zones. The Commission determined that no new or expanded hotel would be permitted in any residential zone. An existing hotel would be allowed to continue, recognizing the substantial investment in place already committed for existing hotels. Consistent with the existing provisions of Sub-section 8103.5, an existing hotel was specified to include one for which a valid application for a building permit existed prior to the effective date of these regulations. Alterations to existing hotels is permitted, but there can be no expansion of the total gross floor area of the hotel and no increase in the size of the function rooms, exhibit space and commercial adjuncts. Accessory commercial adjuncts may be adjusted, including new ones added in place of existing adjuncts as long as the total area devoted to such uses is not increased.

4. Hotels in SP Districts. The Commission determined that hotels should continue to be considered as special exceptions in SP Districts, to allow for appropriate review of each case. The standards by which the BZA evaluates a hotel application were amended, to require the Board to consider the mixed use nature of the SP District and to provide more explicit judgement on parking, loading and traffic issues.

5. Apportionment of FAR. In all SP, W, CR and C Districts, the Commission determined to apportion the area of a hotel based on the hybrid nature of the use. Guest room and service areas are to be charged against the permitted residential density, and all other areas, including function rooms, exhibit space and commercial adjuncts, are to be charged against the commercial FAR.

6. Hotels in W, CR and C Districts. The Commission determined to continue to permit hotels as a matter-of-right in all those mixed use and commercial districts where they are presently permitted as a matter-of-right. This would allow and encourage hotels to locate in areas where commercial uses of all kinds are also permitted as a matter-of-right, should help to alleviate pressure on fringe residential uses where hotels now desire to locate and would be compatible with the intent and purpose of the various districts at issue.

7. Elimination of motels. The Commission determined that the hotel/motel industry has sufficiently changed since 1958 that the previous distinctions between hotel and motel are no longer valid. Establishments are called "hotels," "motels," "motor inns," "motor hotels", "motor lodges," "inns", "houses" and other names. There is no significant difference between the Harambee House which is a motel and the Howard Johnson Motor Lodge, which is a hotel. The Commission therefore eliminated a motel as a new permitted use, and consolidated the definition of motel within the hotel definition.

8. Hotels in C-M and M Districts. As a companion to the consolidation of the hotel and motel definition, the Commission determined to permit hotels in industrial districts. Motels were formerly permitted as a matter-of-right in industrial districts.

9. Treatment of inns. In the course of the case, the Commission determined that there are a number of existing facilities in the city which are residential type hotels. Such facilities are generally not obtrusive in their neighborhoods because they have no function rooms, exhibit space or commercial adjuncts. Such facilities also do not meet the literal definition of a hotel because they have no central dining facility. The Commission therefore determined to permit such uses and to allow them in the same zones and in the same manner that hotels are permitted. Such facilities could presently exist in any of those zones as either a rooming house, apartment house or similar residential use.

10. Parking and loading standards. The Commission determined to add a requirement for parking and loading spaces to be provided to serve the function room spaces of hotels. Previously, such spaces were required only for the guest rooms or suites. The new regulations require both parking and loading space calculations to include the floor area in the largest function room. In addition, the Commission increased the required number of parking spaces in W and CR Districts, consistent with the recommendations of the Department of Transportation. The Commission also accepted DOT's recommendation to increase the size of loading berth facilities associated with hotels.

THE TRANSIENT ISSUE

One of the issues raised in this case related to whether and how the Zoning Commission would define a "transient guest" for the purposes of the Zoning Regulations, and how and in what zones accommodatons for a "transient guest" would be permitted. The original proposal of ANC-2A did not propose to define a "transient guest." The ANC did propose to define and establish a use called an "apartment hotel." The ANC further proposed to make an "apartment hotel" and an "apartment house" mutually exclusive. The standards by which to evaluate that difference related primarily to establishing the apartment hotel as a transient accommodation.

There was considerable discussion in the record of a desire on the part of many individuals and citizens groups to exclude transient guests from apartment houses. The specific proposed text proposed by the OPD and advertised for the January, 1980, hearings included a definition of a transient guests to be "a person visiting the District of Columbia for a specific temporary purpose and whose occupancy of a habitable room or suite does not exceed 90 consecutive days..." This definition was based on the hotel sales tax definition, which is also similar to the hotel occupancy tax provisions. In addition, the OPD text proposed to limit the number of units in an apartment house available for transient guests to a maximum of ten per cent of the total number of units.

After considerable review and discussion, the Commission has determined that it will not separately define a "transient guest," nor will it prohibit the accommodation of transient guests in an apartment house.

The Commission has determined that it is not appropriate to limit the length of stay of persons in an apartment unit. The physical facility remains the same regardless of the length of stay. Furthermore, the Commission is not convinced that there is a material difference in the nature or impact of an apartment house occupied on a short term basis as differentiated from one occupied on a long term basis. The Commission is engaged in the regulation of land use. There is no land-use or zoning basis to prohibit the occupancy of an apartment house on a short term basis. The Commission further notes that many apartments in the District of Columbia are rented on a month to month basis, which under some of the proposed definitions would be considered a transient occupancy. The Commission believes there is a definite role for short term occupancy apartment houses, and finds no basis to exclude them from the regulations.

The Commission notes that one of the underlying reasons for the proposal to define and prohibit transient guests in apartments was to override a provision in the current legislation governing rent control. That provision allows a building to become exempt from rent control if sixty per cent or more of the units are devoted to transient occupancy. As stated previously, the Zoning Commission is emphatic about protecting its jurisdiction from other bodies and not intruding into the legislative jurisdiction of other bodies. In this situation, if the rent control laws need to be amended, such changes should be addressed to the District of Columbia Council, which does have the authority to consider and adopt such an amendment, and not to the Zoning Commission.

THE CONVERSION ISSUE

Another major issue raised in this case was whether the Zoning Commission should restrict the conversion of existing apartments to hotels. The conversion or threat of conversion of a number of buildings in the Foggy Bottom area led ANC-2A to initiate these proceedings before the Zoning Commission. To the extent that conversions of apartment units in residential zones were a problem, the Zoning Commission has resolved that problem by prohibiting the conversion of an apartment to a hotel in a residential district, as well as the construction of a new hotel on a vacent lot. The Commission determined as an appropriate land use matter that new or expanded hotels should not be permitted under any circumstances in residential districts. Likewise, in the SP District, the Commission required all new or expanded hotels, whether by conversion or new construction, to receive approval from the BZA.

The Commission believes that there has been no land use basis presented in this case to evaluate hotels differently if they are arrived at by different means. Whether a hotel is a product of conversion of some existing structure or the construction of a new building, the zoning and land-use implications are the same. If the proposed use can meet all the other requirements of the regulations, it is permitted. The Commission further believes that it would be an arbitrary exercise of its authority to prohibit the owner of an existing apartment building from converting it to a hotel, while at the same time allowing the building to be converted to any other permitted use. The Commission further notes its belief that once regulations are established and uses are instituted under those regulations, it would be inappropriate to establish one of those uses, an apartment building, as having more status than any other use, to the point that that apartment house use could not be terminated. The Commission believes that a person who exercises a right to institute one particular permitted use should not be permanantly compelled to continue that use when the regulations permit other uses in that district as a matter-of-right.

ANC ISSUES AND CONCERNS

After the publication of the notice for the hearings in January, 1980 to consider specific proposed amendments regarding hotels, and before the close of the record on January 31, 1980, the Zoning Commission received written communications from Advisory Neighborhood Commissions 2A (resolution dated January 8, 1980, and letter dated January 19, 1980), 2B (statement received January 21, 1980), 1C (letters dated May 7, 1979 and January 29, 1980) 3F (resolution received January 25, 1980), 3E (letter dated January 24, 1980), 3C (letter dated January 28, 1980) and 3A (letter dated January 30, 1980). The basic issues and concerns raised by the ANC's were as follows:

1. Hotels should be considered entirely as commercial uses.

2. There should be a ban on new hotel construction or expansion in residential districts.

3. No existing apartment houses should be able to be converted or demolished for hotel use.

4. Hotels should be charged entirely against the commercial density in all mixed commercial-residential zones.

5. Hotels should be given an incentive to locate in the downtown commercial zones, particularly near the convention center.

The Zoning Commission has already addressed each of these issues in this statement.

NATIONAL CAPITAL PLANNING COMMISSION REVIEW

The proposed action was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the proposed amendments to the text of the Zoning Regulations relating to the definition, location and standards for hotels "will not have an adverse impact on the Federal Establishment or other Federal interests in the National Capital." The NCPC also commended the Zoning Commission for prohibiting the construction or expansion of new or existing hotels in residence districts. The NCPC noted, however, that testimony which it had received while considering the matter, raised the question as to whether the proposed definitions of "hotel" and "inn", when read with the existing definitions of "apartment" and "apartment house", accomplished this prohibition.

The Commission notes that the hotel case was one of the most comprehensive text amendments considered by the Zoning Commission in the last several years. The Commission believes that technical modifications or amendments to the regulations adopted at this time may be required in the future. The Commission believes that it has addressed all the major substantive issues raised in this case. The Commission further notes that if experience with the operation of the new regulations suggests that further amendments are required, the Commission will consider such amendments as are appropriate.

CONCLUSIONS

The Zoning Commission believes that it has acheived a proper balance in evaluating the issues before it in this case. The Commission notes that it cannot solve all of the problems raised in the context of this case, but believes that it has appropriately addressed the legitimate zoning issues presented. The Commission believes that the regulations as set forth in Order No. 314 are in the best interest of the District of Columbia as a whole and are consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. For the reasons stated herein, the Zoning Commission therefore adopted Order No. 314.

THEODORE F. MARIANI
Chairman

STEVEN E. SHER
Executive Director

This Statement of Reasons was ADOPTED by the Zoning Commission at its public meeting held on May 8, 1980 by a vote of 5-0 (Walter B. Lewis, George M. White, Theodore F. Mariani, Ruby B. McZier and John G. Parsons to ADOPT).